



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 8
999 18TH STREET - SUITE 300
DENVER, CO 80202-2466
Phone 800-227-8917
<http://www.epa.gov/region08>

December 30, 2003

Ref: 8ENF-W

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Keith Dahlem, Owner
Shoshone Lodge
P.O. Box 790
Cody, Wyoming 82414

Re: Administrative Order
Docket No. **SDWA-08-2004-0010**
Shoshone Lodge
PWS ID #5600478

Dear Mr. Dahlem:

Enclosed you will find an Administrative Order (Order), which the Environmental Protection Agency (EPA) has issued under the authority of the Safe Drinking Water Act (SDWA), 42 U.S.C. Section 300f et seq. and its implementing regulations. Among other things, the Administrative Order finds that Shoshone Lodge is a public water supplier as defined by the SDWA and that you have violated the National Primary Drinking Water Regulations (NPDWRs) at 40 C.F.R. §§ 141.21, 141.31(a), 141.21(b), 141.201, 141.21(g)(2), and 141.31(b) for: failure to monitor for total coliform bacteria; failure to report analytical results to EPA within the first ten days following the month in which sample results are received; failure to collect a set of repeat samples within 24 hours of being notified of a total coliform positive routine sample; failure to provide public notice of the violations; failure to report total coliform monitoring violations to EPA within 10 days of discovering the violation; and failure to report NPDWR violations to EPA within 48 hours.



The NPDWRs require public water systems that collect fewer than 5 routine total coliform samples per month and have a coliform positive sample to collect at least 5 routine samples during the next month the system provides water to the public. Due to a total coliform positive sample taken on September 28, 2003 you must collect five additional routine total coliform samples the first month you are in operation in 2004.

If you comply with the enclosed Order for a period of at least twelve months, EPA may choose to close the Order. Violating the enclosed Order may lead to (1) a penalty of up to \$27,500 per day of violation of the Order, (2) a separate such penalty for violating the regulations themselves, and/or (3) a court injunction ordering you to comply.

Among other things, the Order calls for you to provide a public notification for certain monitoring requirements that were not met. For your convenience, we have enclosed some template forms to assist you in providing the required public notice. If you have any questions or comments concerning the form of the public notice, please do not hesitate to contact Jackson Naftel of the EPA, whose telephone number is provided in the last paragraph of this letter.

Also enclosed is a Small Business Regulatory Enforcement and Fairness Act (SBREFA) Section 22 information sheet. The SBREFA sheet notifies small businesses of their right to comment on regulatory enforcement activities, and provides information on compliance assistance. Dissemination of this information sheet does not constitute an admission or determination by EPA that the business, organization or governmental jurisdiction is a small entity as defined by SBREFA.

Please note that the effective date of the enclosed Order is the date of issuance. Within the next 10 days, please provide EPA with any new information that you believe the Agency is not aware of relating to the alleged violations in the Order. The information can be sent to Jackson Naftel at the address on the letterhead, include the mailcode 8ENF-W, or you may call Mr. Naftel at (800)227-8917 extension 6362 or (303)312-6362. If you wish to have an informal conference with EPA, you may also call or write Mr. Naftel. If you are represented by an attorney, please feel free to have your attorney call Peggy Livingston, who can be reached at (800)227-8917 extension 6858 or (303)312-6858.

We urge your prompt attention to this matter.

Sincerely,

SIGNED

Diane L. Sipe, Director
Technical Enforcement Program
Office of Enforcement, Compliance
and Environmental Justice

Enclosures

Order

Public Notice Template

SBREFA

cc: Larry Robinson, WY DEQ
Dr. Karl Musgrave, WDH
Jennifer Watson, Shoshone National Forest

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 8

<u>IN THE MATTER OF</u>)	
Keith Dahlem, Owner)	
Shoshone Lodge)	
Cody, Wyoming)	
)	
Respondent)	
)	ADMINISTRATIVE ORDER
Proceedings under Section 1414(g))	
of the Safe Drinking Water Act,)	
42 U.S.C. § 300g-3(g))	Docket No. SDWA-08-2004-0010
)	

The following Findings are made and Order issued under the authority vested in the Administrator of the U.S. Environmental Protection Agency (EPA) by Section 1414(g) of the Safe Drinking Water Act (the Act or SDWA), 42 U.S.C. § 300g-3(g), and its implementing regulations, as properly delegated to the Supervisors of the Technical and Legal Enforcement Programs of the Office of Enforcement, Compliance and Environmental Justice, EPA Region 8.

FINDINGS

1. Keith Dahlem ("Respondent") is an individual and therefore a "person" within the meaning of 40 C.F.R. § 141.2.
2. Respondent owns and/or operates a system, The Shoshone Lodge Water System (the "System"), located in Park County, Wyoming for the provision to the public of piped water for human consumption.

3. The Shoshone Lodge Water System has at least 15 service connections or regularly serves an average at least 25 individuals daily at least 60 days out of the year and is therefore a "public water system" within the meaning of Section 1401(4) of the Act, 42 U.S.C. § 300f(4), and a "non-community water system" within the meaning of 40 C.F.R. § 141.2.
4. Respondent owns and/or operates a public water system and is therefore a "supplier of water" within the meaning of Section 1401(5) of the Act, 42 U.S.C. § 300f(5) and 40 C.F.R. § 141.2. Respondent is therefore subject to the requirements of Part B of the Act, 42 U.S.C. § 300g, and its implementing regulations, 40 C.F.R. Part 141.
5. According to a July 18, 2001 sanitary survey by an agent for EPA, Respondent operates a system that is supplied solely by ground water consisting of four springs. The System serves approximately 50 persons daily, during its annual operational season, May 1 - September 30, through 16 service connections.

FINDINGS OF VIOLATION

I.

1. 40 C.F.R. § 141.21 requires the owner and/or operators of non-community public water systems to monitor the

water at least once per quarter that the system is serving the public to determine compliance with the maximum contaminant level (MCL) for total coliform bacteria as stated in 40 C.F.R. § 141.63.

2. Respondent failed to monitor the System's water for contamination by total coliform bacteria during the 2nd (April-June) quarter in 2000 and 3rd (July-September) quarter in 2002 in violation of 40 C.F.R. § 141.21(a).

II.

1. 40 C.F.R. § 141.31(a) requires public water systems to report analytical results to EPA within the first ten days following the month in which sample results are received.
2. Respondent failed to submit results to EPA within ten days following the month in which analytical results were received for the 3rd quarter 2000, 2nd quarter 2001, 2nd quarter 2002, 2nd quarter 2003, and 3rd quarter 2003 total coliform samples in violation of 40 C.F.R. § 141.31(a).

III.

1. 40 C.F.R. § 141.21(b) requires public water systems to collect a set of repeat samples within 24 hours of being notified of a total coliform positive routine sample.

2. Respondent failed to collect a set of repeat samples after the September 2003 total coliform positive routine sample, in violation of 40 C.F.R. § 141.21(b)

IV.

1. 40 C.F.R. § 141.201 requires owners and/or operators of public water systems to notify the public of any national primary drinking water regulation ("NPDWR") violations, including violations of the MCL, maximum residual disinfection level ("MRDL"), treatment technique ("TT"), monitoring requirements, and testing procedures in 40 C.F.R. Part 141.
2. Respondent has not provided public notice of the noncompliance detailed in the preceding Sections I, II and III in violation of 40 C.F.R. § 141.201.

V.

1. 40 C.F.R. § 141.21(g)(2) requires public water systems that have failed to comply with a coliform monitoring requirement under 40 C.F.R. § 141.21 to report the violation to EPA within ten days after the system discovers the violation.
2. Respondent failed to report to EPA instances of noncompliance detailed in Sections I and III in violation of 40 C.F.R. § 141.21(g)(2).

VI.

1. 40 C.F.R. § 141.31(b) requires that public water

systems shall report any failure to comply with the NPDWRs to EPA within 48 hours.

2. Respondent failed to report to EPA within 48 hours the instances of noncompliance described in Findings of Violation Section IV, in violation of 40 C.F.R. § 141.31(b).

ORDER

Based on the foregoing Findings, and pursuant to Section 1414(g) of the Act, IT IS ORDERED:

1. Upon the effective date of this Order, Respondent shall comply with the total coliform monitoring requirements as stated in 40 C.F.R. § 141.21 to determine compliance with the total coliform MCL appearing at 40 C.F.R. § 141.63. Respondent shall comply with the MCLs as stated in 40 C.F.R. § 141.63. Respondent shall report analytical results to EPA within the first 10 days following the month in which sample results are received, as required by 40 C.F.R. § 141.31(a).
2. Upon the effective date of this Order, Respondent shall comply with all repeat sampling requirements specified in 40 C.F.R. § 141.21(b). This requires that Respondent take no fewer than 4 repeat samples within 24 hours of being notified of a total coliform positive routine sample. Each repeat sample is to be analyzed

for total coliform bacteria. At least one repeat sample must be taken from each of the following: a) the tap where the original total coliform positive sample was taken, b) from within 5 service connections upstream of the original total coliform positive tap, and c) from within 5 service connections downstream from the original total coliform positive tap. The fourth repeat sample is to be taken anywhere within 5 service connections upstream or downstream of the original total coliform positive tap. Respondent shall report analytical results to EPA within the first 10 days following the end of the monitoring period, as required by 40 C.F.R. § 141.31(a).

3. Within 30 days upon opening for the 2004 season, Respondent must comply with the public notice requirements set forth at 40 C.F.R. § 141.201 et seq. to return to compliance with 40 C.F.R. §§ 141.201, 141.204, and 141.205. Specifically, Respondent must provide public notice of the failure to monitor for contamination by total coliform bacteria in accordance with 40 C.F.R. § 141.204. Public Notice must be given by any one of the following methods: (1) posting the notice in conspicuous locations throughout the distribution system frequented by persons served by the system; (2) by mail or direct delivery to each customer

and service connection; AND (3) any other method reasonably calculated to reach other persons served by the system, if they would not normally be reached by the public notice described in (1) and (2), including publication in a local newspaper or newsletter distributed to customers; use of E-mail to notify employees or students; or, delivery of multiple copies in central locations. Upon the effective date of this Order, Respondent shall comply with the public notification requirements at 40 C.F.R. § 141.201 et seq. following any future NPDWR violation. Respondent shall submit a copy of the public notice to EPA within 10 days of completion of the public notice, as required by 40 C.F.R. § 141.31(d).

4. Upon the effective date of this Order, Respondent shall comply with 40 C.F.R. § 141.21(g)(2) by reporting any failure to comply with coliform monitoring requirements under 40 C.F.R. § 141.21 to EPA within ten days after the system discovers the violation.
5. Upon the effective date of this Order, Respondent shall comply with 40 C.F.R. § 141.31(b) by reporting any failure to comply with any NPDWR (40 C.F.R. Part 141) to EPA within 48 hours.
6. Reporting requirements specified in this Order shall be provided by certified mail to:

Jackson Naftel
U. S. EPA Region 8 (8ENF-W)
999 18th Street, Suite 300
Denver, Colorado 80202-2466

GENERAL PROVISIONS

1. This Order does not constitute a waiver, suspension, or modification of the requirements of 40 C.F.R. § 141.1 et seq., or the Act, which remain in full force and effect. Issuance of this Order is not an election by EPA to forgo any civil or criminal action otherwise authorized under the Act.
2. Violation of any term of this Order, instituted under Section 1414(g) (3) (A) of the Act, 42 U.S.C. § 300g-3(g) (3) (A), may subject Respondent to an administrative civil penalty of up to \$25,000 under Section 1414(g) (3) (B) of the Act, 42 U.S.C. § 300g-3(g) (3) (B), or a civil penalty of not more than \$27,500 per day of violation, assessed by a U.S. District Court, under Section 1414(g) (3) (C) of the Act, 42 U.S.C. § 300g-3(g) (3) (C).
3. Violation of any requirement of the SDWA or its implementing regulations, instituted under Section 1414(b) of the Act, 42 U.S.C. § 300g-3(b), may subject Respondent to a civil penalty of not more than \$27,500 per day of violation, assessed by an appropriate U.S. District Court, under Section 1414(b) of the Act, 42 U.S.C. § 300g-3(b).

4. The effective date of this Order shall be the date of issuance of this Order.

Issued this 30TH day of December, 2003.

David J. Janik

Michael T. Risner, Director
David J. Janik, Supervisory Attorney
Legal Enforcement Program
Office of Enforcement, Compliance
and Environmental Justice

SIGNED

Dianne L. Sipe, Director
Technical Enforcement Program
Office of Enforcement, Compliance
and Environmental Justice

**IF YOU WOULD LIKE COPIES OF THE ATTACHMENTS, PLEASE CONTACT THE
REGIONAL HEARING CLERK.**

THIS DOCUMENT WAS FILED IN THE RHC'S OFFICE ON DECEMBER 30, 2003.